REMARKS

Applicants respectfully submit that all the claims presently on file are in condition for allowance, which action is earnestly solicited. Applicants have amended the claims to more clearly point out the present invention.

THE CLAIMS

Claim Rejection Under 35 U.S.C. 103

Claims 1-15 were rejected under 35 U.S.C. 103(a) as being unpatentable over Xu et al., US Patent No. 6,965,883 (hereinafter referred to as "Xu") in view of Alve et al., U.S. Patent Publication No. 2003/0076955 (hereinafter referred to as "Alve"). Applicants respectfully submit that the cited references do not disclose all the elements and limitations of the claims on file as a whole. Consequently, the claims on file are not obvious under 35 U.S.C. 103, and the allowance of these claims is earnestly solicited. The allowability of the rejected claims will now be discussed in view of representative claim 1.

The Examiner rejected claim 1 under 35 USC 103(a), based on the following ground:

> "As to independent claim 1, "A method for securely removing a device from at least one of a plurality of devices in a network, the method comprising:" is taught in '883 col. 14, lines 12-20".

Applicants respectfully traverse this rejection and submit that <u>Xu does not describe the removal of a device from the plurality of devices in a network while protecting a content from unauthorized use or distribution</u>. Applicants reproduce herein the excerpt referenced by the Examiner:

> "An apparatus for calculating a cost of receiving multicast data from a multicast session. A multicast network includes at least one

multicast service, each multicast service including at least one multicast session. The apparatus receives a request to establish a connection to the multicast session, stores a start time for the connection and an end time for the connection and, after termination of the connection, calculates the cost of receiving the multicast data." Xu (column 14, lines 12 - 20).

Applicants respectfully submit that the foregoing excerpt <u>does not disclose the protection of the content from authorized use or distribution.</u>

The Examiner further adds that Xu describes "marking the device for removal, by modifying the list of the plurality of devices in the network; recalculating the encryption key using the modified list; and reencrypting the protected content with the recalculated encryption key", at col. 7, lines 4-16.

Applicants respectfully traverse this characterization of Xu, and reproduce below the excerpt referenced by the Applicants:

"Group membership management 122 maintains the group membership information for every terminal on the same multicast link and is responsible for determining the join status of each terminal. Multicast security unit 123 is responsible for sending decryption key 118 to user terminal 110. Optionally, multicast security unit 123 may encrypt the multicast data from multicast server 190 before it is sent to user terminal 110. Multicast security unit 123 sends decryption key 118 when the user initially joins a multicast session. Multicast security unit 123 updates decryption key 118 either when another multicast user terminates the session or at discrete time intervals." Xu, col. 7, lines 4-16.

Applicants respectfully submit that Xu does not describe <u>tentatively</u> marking the device for removal, by modifying the list of the plurality of devices in the network<u>, wherein the list of the plurality of deivces is included in an authorization table.</u>

More specifically, <u>Xu</u> clarifies that: "IP Multicast is a receiver-based

protocol. A receiver subscribes to a multicast session group by sending a join message to the multicast session group. Since the network infrastructure delivers the traffic to each member of the multicast session group, **the sender does not need to maintain a list of receivers**. The advantage is that only one copy of a multicast message passes over any link in the network. In addition, IP Multicast only creates a copy of the message when the paths diverge at a router. Thus, EP multicast yields many performance improvements and conserves bandwidth throughout the system." Xu, column 1, lines 47-58, with emphasis added. Thus, in a multicast session, **the sender does not need to maintain a list of receivers.** Therefore, contrary to Xu's teaching, the present invention maintains a list of networked devices. As a result, Xu teaches away from the present invention.

In addition, Applicants respectfully submit that **Xu does not tentatively mark** the device to be removed, as clarified in the present amendment to claim 1.

Furthermore, Applicant submit that **Xu does not disclose** that the device marked for removal automatically acknowledges the removal, as recited in claim 1. In Xu, the termination of the multicast session is final, and the multicast user terminal does not automatically send an acknowledgment of the removal.

Applicants agree with the Examiner that: "the following is not explicitly taught in '883: "calculating an encryption key for a protected content in the network, based at least in part on a list of the plurality of devices in the network"."

As a result, Applicants respectfully submit that **Xu does not consider the present invention as a whole.**

The Examiner resorts to Alve as describing: "An exemplary method includes receiving content at a user's device. The received content is encrypted with a content key. The content key is protected by encrypting it with a domain key." However, similarly to the Xu reference, Alve <u>does not describe the present invention as a whole</u>, in that Alve does not teach the elements of claim 1. More specifically, Alve does not describe "a method for securely removing a device from at least one of a plurality of devices in a network while protecting a content from unauthorized use or distribution".

In addition, Applicants do not profess to lay claim on the general concept of encrypting the content with a content key, independently from the remaining elements of claim 1.

As a result, the hypothetical combination of <u>Xu and Alve will not consider the present invention as a whole</u>, necessitating the finding of non-compliance with the following legal standard/authority, which is cited herein in support of the finding of non-obviousness:

> **"In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is** not whether the differences themselves would have been obvious, but **whether the claimed invention as a whole would have been obvious.** The prior art perceived a need for mechanisms to dampen resonance, whereas the inventor eliminated the need for dampening via the one-piece gapless support structure. "Because that insight was contrary to the understandings and expectations of the art, the structure effectuating it would not have been obvious to those skilled in the art." 713 F.2d at 785, 218 USPQ at 700."

In support of the combination of Xu and Alve, the Examiner states as follows:

> "It would have been obvious to one of ordinary skill in the art at the time of the invention of a charging mechanism for multicasting data to a home network taught in '966 to include a means to calculate an encryption key based on the list of devices currently in the network. One of ordinary skill in the art would have been motivated to perform such a modification because copy protection techniques need to enhanced for a home network see '955 (page 1 paragraph 0002)."

Applicants respectfully submit that the Examiner provided a general reason for the desirability of the combination of Xu and Alve, in hindsight. More specifically, the foregoing reason provided by the Examiner is generic and insufficiently specific.

As a result, The Examiner has not met the prima facie burden of supporting the obviousness rejection under 35 USC 103, and the hypothetical combination of Xu and Alve cannot be used to support a finding of obviousness, as indicated by the legal authorities below:

> "**Obviousness cannot be established** by combining the teachings of the prior art to produce the claimed invention, **absent some teaching or suggestion** supporting the combination." *In re Fine, 837 F.2d at 1075, 5 USPQ2d at 1598 (citing ACS Hosp. Sys. v. Montefiore Hosp., 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984)).* **What a reference teaches** and whether it teaches toward or **away from the claimed invention** are questions of fact. See *Raytheon Co. v. Roper Corp., 724 F.2d 951, 960-61, 220 USPQ 592, 599-600 (Fed. Cir. 1983),* cert. denied, *469 U.S. 835, 83 L. Ed. 2d 69, 105 S. Ct. 127 (1984)."*

> "When a rejection depends on a combination of prior art references, there must be **some teaching, suggestion, or motivation** to combine the references. See *In re Geiger, 815 F.2d 686, 688, 2 USPQ2d 1276, 1278 (Fed. Cir. 1987)."* Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention **where there is some teaching, suggestion, or motivation** to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary

skill in the art. See MPEP 2143.01; In re Kotzab, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000); In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992)."

Claim 1 is thus not obvious in view of Xu and Alve and the allowance of this claim and the claims dependent thereon, is earnestly solicited. Independent claim 8 is allowable for containing a similar subject matter to that of claim 1. Therefore, claim 8 and the claims dependent thereon, are also allowable.

CONCLUSION

All the claims presently on file in the present application are in condition for immediate allowance, and such action is respectfully requested. If it is felt for any reason that direct communication would serve to advance prosecution of this case to finality, the Examiner is invited to call the undersigned at the below-listed telephone number.

Respectfully submitted,

Date: <u>June 22, 2007</u>

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